



## **INVESTIGATING AND DISCIPLINARY COMMITTEE – 15TH SEPTEMBER 2014**

**SUBJECT: PROPOSED CHANGES TO THE PROCEDURES IN THE TERMS OF REFERENCE AS A RESULT OF LOCAL AUTHORITIES (STANDING ORDERS) (WALES) (AMENDMENT) REGULATIONS 2014**

**REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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### **1. PURPOSE OF REPORT**

- 1.1 To propose amendments to the disciplinary procedures set out in this Committees Terms of Reference as a result of certain changes made to the Local Authorities (Standing Orders) (Wales) Regulations 2006 by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 in relation to the dismissing and conducting disciplinary investigations of certain officers of the Council.
- 1.2 To seek approval for the Council's Interim Head of Legal Services and Monitoring Officer to make the necessary changes to the disciplinary procedures to reflect the changes referred to in paragraph 4.4 and 4.5 of this report.
- 1.3 To confirm that the changes to be made in accordance with paragraph 1.2 will be followed in relation to the current proceedings.
- T1.4 To note that a separate report will be presented to Council to propose additional and consequential amendments to the Constitution and the Committees Terms of Reference.
  - a) to reflect the requirements of the 2014 Regulations and
  - b) to reflect a review of current procedures.

### **2. SUMMARY**

- 2.1 To seek approval to amend the disciplinary procedures set out in the Committees Terms of Reference to reflect certain requirements of the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.

### **3. LINKS TO STRATEGY**

- 3.1 As part of its Terms of Reference the Investigating and Disciplinary Committee has the power to review and amend the Disciplinary Procedures A & B from time to time having regard to any changes to the model procedures outlined in the JNC Conditions of Service for Chief Officers that may be implemented from time to time. The JNC Conditions are based on the Local Authorities (Standing Orders) (Wales) Regulations 2006 and associated amendments.

## **4. THE REPORT**

- 4.1 The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (the 2014 Regulations) came into force on 1<sup>st</sup> July 2014 and amended the Local Authorities (Standing Orders) (Wales) Regulations 2006 (the 2006 Regulations) relating amongst other matters to the process for dismissing and conducting disciplinary investigations of certain officers of authorities.
- 4.2 As part of its Terms of Reference this Committee has the power to review and amend the Disciplinary Procedures A and B from time to time having regard to any changes to the model procedures outlined in the JNC Conditions of Service for Chief Officers that may be implemented from time to time.
- 4.3 This report advises the Committee of the specific changes introduced by the 2014 Regulations which affect both Disciplinary Procedures A and B and proposes amendments to both procedures to give effect to those changes as set out in Appendix 1 and 2.

### **Disciplinary Procedure A**

- 4.4 The changes of particular relevance for consideration by this Committee in respect of Disciplinary Procedure A are as follows:-
- 4.4.1 The role of the Head of Democratic Services is to be given the same protection as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (Section 151 Officer) as regards the process under which local authorities can take disciplinary action against them, which requires that a Designated Independent Person is involved in the process.
- 4.1.2 The protection in 4.4.1 above now extends to an officer who was at the time of the alleged misconduct in one of the positions above, even if they are no longer in that post, when the disciplinary procedures commenced.
- 4.1.3 The posts of Head of Democratic Services and Monitoring Officer are added to the list of posts who are not subject to appointment, dismissal or the taking of disciplinary action by the Head of Paid Service or by an officer nominated by the Head of Paid Service. The Monitoring Officer is already included in Disciplinary Procedure A, so this change has only required the inclusion of Head of Democratic Services to Disciplinary Procedure A as set out in Appendix 1.
- 4.1.4 Minor consequential amendments have also been made to refer to the 2014 Regulations and reference to Welsh Ministers.

### **Disciplinary Procedure B**

- 4.5 The changes of particular relevance for consideration by this Committee in respect of Disciplinary Procedure B are as follows:-
- 4.5.1 The amendment referred to in 4.4.1 has resulted in a change to paragraph 1 of Disciplinary Procedure B so as to exclude the Head of Democratic Services.
- 4.5.2 In addition the 2014 Regulations extend the scope of Disciplinary Procedure B to include an officer who was at the time, of the alleged misconduct in one of the positions referred to in Disciplinary Procedure B even if, they are no longer in that post when the disciplinary procedures commenced.
- 4.5.3 Minor consequential amendments have also been made to refer to the 2014 Regulations.
- 4.6 Members will note this report seeks approval to make specific changes to the Disciplinary Procedures A and B as a result of the 2014 Regulations. Further changes will be proposed in a report to Council to reflect the additional requirements of the 2014 Regulations including changes to the Officer Employment Procedure Rules and appropriate definitions.

4.7 In view of the above changes, this report seeks Committees approval for the Interim Head of Legal Services and Monitoring Officer to make the necessary changes to Disciplinary Procedures A and B as set out in Appendix 1 and 2 of this report.

## **5. EQUALITIES IMPLICATIONS**

5.1 There are no equalities implications as a result of this report.

## **6. FINANCIAL IMPLICATIONS**

6.1 There are no financial implications as a result of this report.

## **7. PERSONNEL IMPLICATIONS**

7.1 The personnel implications as set out in this report.

## **8. CONSULTATIONS**

8.1 The views of the consultees have been reflected in this report.

## **9. RECOMMENDATIONS**

9.1 To authorise the Council's Interim Head of Legal Services and Monitoring Officer to make the changes to the Disciplinary Procedures A and B as set out in Appendix 1 and 2 to this report.

9.2 To confirm that the changes to be made in accordance with paragraph 9.1 will be followed in relation to the current proceedings.

9.3 To note that a separate report will be presented to Council to propose additional and consequential amendments to the Constitution and the Committees Terms of Reference

- a) to reflect the requirements of the 2014 Regulations and
- b) to reflect a review of current procedures.

## **10. REASONS FOR THE RECOMMENDATIONS**

10.1 To give effect to the requirements of the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.

10.2 The Council is legally required to make these changes.

## **11. STATUTORY POWER**

11.1 Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.  
Local Government Act 1972.

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Background Papers:

Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014  
Explanatory Memorandum to the Local Authorities (Standing Orders) (Wales) Regulations (Amendment) Regulations 2014

Appendices:

Appendix 1    Disciplinary Procedure A  
Appendix 2    Disciplinary Procedure B